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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,863	06/17/2005	Thomas Ralph Edwards Greenwell	357358.00006-US	6693
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Saul Ewing LLP (Philadelphia) Attn: Patent Docket Clerk Penn National Insurance Plaza 2 North Second St., 7th Floor Harrisburg, PA 17101			EXAMINER RAYYAN, SUSAN F	
			ART UNIT 2167	PAPER NUMBER
			MAIL DATE 08/03/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/539,863

Applicant(s)

GREENWELL ET AL.

Examiner

SUSAN FOSTER RAYYAN

Art Unit

2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-27 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. **Claims 1-9, 17, 19, 24-27 are rejected under 35 U.S.C. 102(a) as being anticipated by WO 01/78319A2 issued to Tabitha Ferguson et al (“Ferguson”).**

As per claim 1 Ferguson anticipates:

Method of automatically replicating data objects between a mobile device and a server, connected together via a wireless network, in which the timing of data replication across the network is determined by a network operator applying parameters that make efficient usage of network bandwidth (Figure 23, page 47, line 14- page 53, line 24, as synchronization between mobile device and host system, transmission of bundled information at non-peak network or transmission times) ;

creating a change log that (page 48, line 31-page 49, line 6, as "database 1950 ") lists all objects at the device and/or server to be replicated assigning as first of said parameters a weight associated with each object that defines how urgently that object needs to be replicated (page 49 lines 5-17, as "criteria" includes maximum message size, maximum time reached, type of message, destination address and "configuration parameters" to include time of day, day of week and "received network parameters" include cycle based on activity level, network airtime.);

assigning as a second of said parameters a threshold that is a function of time, with the single weight of each object being locally compared to the threshold at a given time and the outcome of the comparison determining whether the object is sent for replication or not at that time (page 52, lines 20-22, as criteria to decide whether to send immediately or not and page 53, lines 19-25, as transmission may be delay to non-peak times));

wherein all criteria that are relevant to how urgently an object needs to be replicated are represented by the single weight associated with that object replicated (page 49 lines 5-17, as "criteria" includes maximum message size, maximum time reached, type of message, destination address and "configuration parameters" to include time of day, day of week ... and "received network parameters" include cycle based on activity level, network airtime. Page 53, lines 21-23, criteria to decide whether to send immediately or not)).

As per claim 2, same as claim arguments above and Ferguson anticipates:

in which a connection is established at a given time if the weight of any object exceeds the threshold at that time (page 49 lines 5-9 and page 51 lines 15-26 as "maximum message size, maximum time reached , specific type of message, destination address, a content identifier ... and a set of configuration parameters") and (page 52, lines 20-22, as criteria to decide whether to send immediately or not and page 53, lines 19-25, as transmission may be delay to non-peak times)).

As per claim 3, same as claim arguments above and Ferguson anticipates:

in which the weight of an object at a given time is a function of one or more of the following:

(a) Direction of data replication (device to server or server to device) (b) Shelf life, defining the time or duration after which the object will be automatically deleted if still present in the change log (c) Whether the object is over writable (d) Size in bytes (e) Time entered into the change log (f) Priority (g) Time out interval (h) Assigned time for replication (i) User assignment of a non-default priority to a given object (j) Memory available at (page 52, lines 20-22, as criteria to decide whether to send immediately or not and page 53, lines 19-25, as transmission may be delay to non-peak times) and page 53, line 23 delay transmission

to off peak hours).

As per claim 4, same as claim arguments above and Ferguson anticipates:

which the network operator can cause the weight of an object to be altered at any time(page 49, network parameters may be set by a network operator).

As per claim 5 same as claim arguments above and Ferguson anticipates:

in which the network operator can cause the threshold to be altered at any time (page 49, network parameters may be set by a network operator).

As per claim 6, same as claim arguments above and Ferguson anticipates:

in which the threshold varies over time in such a way that efficient use is made of available bandwidth(page 52, lines 20-22, as criteria to decide whether to send immediately or not and page 53, lines 19-25, as transmission may be delay to non-peak times) and page 53, line 23 delay transmission to off peak hours).

As per claim 7, same as claim arguments above and Ferguson anticipates:

in which the threshold can vary over time in a different way for different groups of end-users, individual end-users or applications(page 52, lines 20-22, as criteria to decide whether to send immediately or not and page 53, lines 19-25, as transmission may be

delay to non-peak times) and page 53, line 23 delay transmission to off peak hours).

As per claim 8, same as claim arguments above and Ferguson anticipates:

in which dynamic varying of the threshold can occur as cell or network loadings change (page 53, lines 19-25, as transmission may be delay to non-peak times) and page 53, line 23 delay transmission to off peak hours, transmit or bundled dynamically to provide user maximum benefit).

As per claim 9, same as claim arguments above and Ferguson anticipates:

in which dynamic varying of the threshold can occur to encourage uptake of a new data replication service (page 53, lines 17-25, determination as to whether to transmit or bundle can be handled dynamically).

As per claim 17, same as claim arguments above and Ferguson anticipates:

in which an object to be replicated is assigned a shelf life which defines a time or duration after which the object will be deleted automatically if not replicated page 53, lines 1-25.

As per claim 19, same as claim arguments above and Ferguson anticipates:

in which, once a connection initiating object has been replicated, then further objects in a change log and pending replication are sent as well (page 50 line 30 to page 51 line 5 (each mobile device will get information to their mobile as the data and commands

become available).

As per claim 24, same as claim arguments above and Ferguson anticipates:
in which the network operator can vary the opportunism threshold(page 49, network parameters may be set by a network operator).

As per claim 25 same as claim arguments above and Ferguson anticipates:
in which the actual time of replication is a function of the state of the mobile device, the state of the network and the parameters(page 49 lines 5-17, as "criteria" includes maximum message size , maximum time reached, type of message, destination address and "configuration parameters" to include time of day, day of week ... and "received network parameters" include cycle based on activity level, network airtime. Page 53, lines 21-23, criteria to decide whether to send immediately or not)).

Claims 26 is rejected based on the same rationale as claim 1 above.

Claims 27 is rejected based on the same rationale as claim 1 above.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10-16, 18, 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson in view of EP 0794646A2 issued to Stefan Hild ("Hild").

As per claim 10, same as claim arguments above and Ferguson does not explicitly teach in which the threshold can vary depending on one or more of the following:(a) current time(b) device roaming status(c) cell or network loading (d)time since last replication(e)user tariff . Hild does teach this at (page 9, column 15 line 27 to column 16 line 7 as exact timing of synchronization determined by several factors: "weights" and specified limit (threshold) , periodic updates, current network cost and availability, on-demand basis. Column 11, lines2, when to update the files is based on criteria such as time elapsed since last update). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Ferguson with the threshold can vary depending on one or more of the following:(a) current time(b) device roaming status(c) cell or network loading (d)time since last replication(e)user tariff to provide an improved means for managing data replication

across a plurality of computers which are in communicate over a mobile communication network as described by Hild at column 4, lines 3-6.

As per claim 11, same as claim arguments above and Ferguson does not explicitly teach in which, if the weight of no object exceeds the threshold at a given time, the time interval that will elapse before the weight of any object exceeds the threshold is calculated and a timer set for that time interval. Hild does teach this at column 11, lines 2, when to update the files is based on criteria such as time elapsed since last update. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Ferguson with in which, if the weight of no object exceeds the threshold at a given time, the time interval that will elapse before the weight of any object exceeds the threshold is calculated and a timer set for that time interval to provide an improved means for managing data replication across a plurality of computers which are in communicate over a mobile communication network as described by Hild at column 4, lines 3-6.

As per claim 12, same as claim arguments above and Ferguson does not explicitly teach in which the time interval is re-calculated if (a) a new object is added to the change log (b) a new threshold is deployed (c) the timer expires

(d)cell or network loading alters (e)device memory falls below a preferred level (f) the device detects that its roaming state changes (g) a new application is activated on the device(h) a network connection is terminated. Hild does teach at (page 9, column 15 line 27 to column 16 line 7 as exact timing of synchronization determined by several factors: "weights" and specified limit (threshold) , periodic updates, current network cost and availability, on-demand basis. Column 11, lines2, when to update the files is based on criteria such as time elapsed since last update). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Ferguson within which the time interval is re-calculated if (a) a new object is added to the change log (b)a new threshold is deployed (c)the timer expires (d)cell or network loading alters (e)device memory falls below a preferred level (f) the device detects that its roaming state changes (g) a new application is activated on the device(h) a network connection is terminated to provide an improved means for managing data replication across a plurality of computers which are in communicate over a mobile communication network as described by Hild at column 4, lines 3-6.

As per claim 13, same as claim arguments above and Ferguson does not explicitly teach in which the end-user of the device can override default replication timing in respect of a specific object or type of object. Hild does teach this limitation at column 16, update on demand. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Ferguson with in which the end-user of the device can override default replication timing in respect of a specific object or type of

object to provide an improved means for managing data replication across a plurality of computers which are in communicate over a mobile communication network as described by Hild at column 4, lines 3-6.

As per claim 14, same as claim arguments above and Ferguson does not explicitly teach in which an object to be replicated is assigned a time limit by which time replication must occur. Hild does teach this limitation at column 16, lines 3-8 as update on demand. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Ferguson in which an object to be replicated is assigned a time limit by which time replication must occur to provide an improved means for managing data replication across a plurality of computers which are in communicate over a mobile communication network as described by Hild at column 4, lines 3-6.

As per claim 15, same as claim arguments above and Hild teaches:
in which the time limit is dynamic at column 16, lines 3-8 as update on demand.

As per claim 16, same as claim arguments above and Hild teaches:

in which the time limit alters if memory on the device changes or if the device roams to a new network at column 16, lines 3-8 as update on demand.

As per claim 18, same as claim arguments above and Ferguson does not explicitly teach in which different parameters enable the network operator to offer end-users different levels of data replication service, each associated with a different tariff. Hild does teach this limitation at (column 15 lines 45-57, current network cost and availability. "Cheaper rate" and "cheaper network".). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Ferguson with in which different parameters enable the network operator to offer end-users different levels of data replication service, each associated with a different tariff to provide an improved means for managing data replication across a plurality of computers which are in communicate over a mobile communication network as described by Hild at column 4, lines 3-6.

As per claim 20, same as claim arguments above and Ferguson does not explicitly teach in which an opportunism threshold function determines the further objects that are sent. Hild does teach this limitation at column 15, lines 46-59 as current network costs and availability. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Ferguson with in which an opportunism threshold function determines the further objects that are sent to provide an improved means for managing data replication across a plurality of computers which are in

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communicate over a mobile communication network as described by Hild at column 4, lines 3-6.

As per claim 21, same as claim arguments above and Hild teaches:

in which the opportunism threshold changes if the device is on a roaming network at column 15, lines 46-59 as current network costs and availability.

As per claim 22, same as claim arguments above and Hild teaches:

in which the opportunism threshold changes depending on whether a cell loading threshold of the cell the device is located in is exceeded at column 15, lines 46-59 as current network costs and availability.

As per claim 23, same as claim arguments above and Hild teaches:

in which the opportunism threshold is applied consistently by device and server, with changes to the threshold communicated across the network at column 15, lines 46-59 as current network costs and availability.

Response to Arguments

6. Applicant's arguments filed May 24, 2010 have been fully considered but they are not persuasive.
7. Applicant argues prior art of record (Ferguson) teaches all of the criteria are used to represent how urgently an object needs to be transmitted by contrast, the claimed invention uses a single criteria, i.e., the single weight assigned individually to each object to determine how urgently an object needs to be replicated. Examiner finds Ferguson teaches this at (page 48, line 31-page 49, line 6, as "database 1950 ") lists all objects at the device and/or server to be replicated and the parameters then comprise a weight associated with each object that defines how urgently that object needs to be replicated (page 49 lines 3-17 and, as Pending messages could use a wide variety of criteria to decide whether they may be sent these criteria include but are not limited to maximum message size, maximum time reached, type of message, destination address and "configuration parameters" to include time of day, day of week and "received network parameters" include cycle based on activity level, network airtime., p.51, lines 17-23, as some of the criteria can be used include but is not limited to maximum message size [. . .]. The criteria used to represent how urgent the message is sent may be one or more criteria).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUSAN FOSTER RAYYAN whose telephone number is (571)272-1675. The examiner can normally be reached on M, H-F, and 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on 571-272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SUSAN FOSTER RAYYAN/

Examiner, Art Unit 2167

August 1, 2010

/John R. Cottingham/

Supervisory Patent Examiner, Art Unit 2167